

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

In re:)
Blue Cross and Blue Shield Vermont) GMCB-001-23-rr
2024 Large Group Rate Filing)

SERFF: BCVT-133551255

MEMORANDUM IN LIEU OF HEARING

I. Background

Pursuant to Green Mountain Care Board (GMCB) Rule 2.309(a), Blue Cross and Blue Shield of Vermont (BCBSVT) respectfully requests that the GMCB approve, without modification, the filing reflected in the *Blue Cross and Blue Shield of Vermont 2024 Large Group Rating Program Filing Actuarial Memorandum* (BCBSVT Memo).

BCBSVT’s filing provides the formula, manual rate and factors that will be used to determine the rates of experience-rated fully-insured large groups with over 100 employees. BCBSVT projects that this filing will affect approximately 5,785 members (3,270 subscribers) in 40 groups. The factors addressed in the filing are the trend factors,¹ benefit factors,² factors applicable to all large groups,³ and factors applicable only to specific products,⁴ that will be applied to large group rates for the period covered by the filing. The actual rate impact for any particular customer – and the overall average rate increase – will be driven by the claims experience in the period used to develop rates, premiums currently in force, and underwriting

¹ Including: medical trend development, retail pharmacy trend, overall total trend, leveraged trends, Medicare secondary trends, vision trend, and prior experience period trend factors.

² Including: models for active employees, tier factors, models for age 65+ Medicare secondary payer plans, formulary & pharmacy options, riders, and rate smoothing charges.

³ Including: manual rate, large claims factors, administrative charges, net cost of reinsurance, pharmacy rebates, payment reform initiatives, contribution to reserve, state mandates and assessments, federal assessments, hearing aids.

⁴ Including: stop loss coverage for Cost Plus products.

judgment and management discretion applied to the case. The factors included in the filing as applied to a large group customer's claims experience will produce rates reasonably expected to cover the costs of a group's health benefits.

II. Argument

- a. *This filing is actuarially justified and reasonably expected to produce rates that are not excessive, inadequate, or unfairly discriminatory.*

The GMCB's consulting actuary, Lewis and Ellis (L&E), provided a report on April 11, 2023 in response to the BCBSVT Memo (L&E Report). Generally, L&E accepted BCBSVT's assumptions concerning its rate filing:

L&E believes that this filing does not produce rates that are excessive, inadequate, or unfairly discriminatory. Therefore, L&E recommends that the Board approve the filing, resulting in an anticipated average premium change of approximately 8.5%.⁵

The key findings and recommendations contained in the L&E Report with respect to this filing are quoted as follows:

- Updated Experience Base: "... it is difficult to know whether the pooling charges used are inadvertently producing a claims estimate which is systematically high or low. We believe the uncertainty created by the recent unfavorable experience with high-cost claimants should impact how the Board considers other assumptions like trend and Contribution to Reserves. This uncertainty makes precise quantification difficult, but an increase to the manual rate projections claims of three to four percent could be reasonable." (L&E Report at 3). Effectively, L&E opines that the as filed pooling charges may be low, and that the as filed manual rate could justifiably be raised an additional 3-4%.

⁵ The undersigned understands that reference to 8.5% is a typographical error. The correct number should be 10.8%. This is further supported by:

- Point number 5 on page 1 of the L&E Report, which states: "As initially filed, the average premium change of a manually rated group was approximately 10.8%." (Emphasis added).
- Point number 6 on page 2 of the L&E Report, which states: "The actual premium increase experienced by a particular group will vary from the average of +10.8%. Each group's rate increase or rate decrease will consider their recent claims experience, changes in the distribution of members enrolled, and changes in benefits. A newly formed large group would experience 1Q2024 premiums that were approximately 10.8% higher than a similar newly formed large group in 1Q2023." (Emphasis added).

- Medical Trend Development:
 - **Utilization and Intensity**: “L&E does not recommend any changes to the medical utilization trend assumptions.” (L&E Report at 6);
 - **Unit Cost**: “L&E does not recommend any changes to the medical unit cost trend assumptions.” (L&E Report at 6);
 - **Outpatient RX**: “Unit cost changes for Outpatient Rx were assumed to mirror those for Outpatient Facility charges, given this is the setting in which they are dispensed. L&E believes this assumption is reasonable”. (L&E Report at 7);
- Pharmacy Trend Development: “[BCBSVT] projects overall pharmacy allowed trend to be about 12.4% per year. This reflects not only unit cost and utilization changes but also contracting changes with the PBM (Pharmacy Benefit Manager). This total pharmacy allowed trend is reasonable in aggregate as well as when analyzed by the components described above. (L&E Report at 10);
- Leverage Adjustments to Allowed Trends: “The methodology of using the Benefit Relativity models to estimate the impact on paid claims with and without the allowed trend is consistent with last year's filing. The approach that [BCBSVT] used to adjust allowed trends to paid trends is reasonable and appropriate.” (L&E Report at 11);
- Administrative Costs: “The admin assumptions used in the each of the components appear to be reasonable and appropriate. (L&E Report at 12);
- Federal Fees: “The projected Patient-Centered Outcomes Research Institute (PCORI) fee is approximately \$0.27 PMPM. This value is reasonable.” (L&E Report at 12);
- Contribution to Reserves (CTR): “L&E notes that the last few years have resulted in contributions to reserve that were lower than projected in the filing. This is due in part to the high pooled claims experienced on this block. If those high pooled claims continue, the actual CTR experienced by BCBSVT will be substantially lower than the 3.0% proposed this filing and may be negative. While this is a dramatic increase from BCBSVT’s typical requests, the experience on this block of business and BCBSVT’s corporate losses reflect a need for a greater CTR.

The results of the Department of Financial Regulation’s Solvency Analysis should be considered in the approval of this assumption.”⁶ (L&E Report at 12-13);

⁶ In Fact, DFR did opine on this matter, and found that “DFR believes that the range of surplus targeted by BCBSVT is reasonable and necessary for the protection of policyholders.” (See below at section II(c), (internal footnote omitted). See also 8 V.S.A. Sec. 4062: “the Board shall consider the analysis and opinion provided by the Department of Financial Regulation...” regarding insurer solvency (among other factors).

- b. *The GMCB must approve the filing because it will produce rates that are affordable for the benefits provided, while promoting quality care and ensuring access to health care.*

On review, the GMCB must determine whether the proposed formula and factors will produce rates that are affordable, promotes quality care, promotes access to health care, protects insurer solvency, is not unjust, unfair, inequitable, misleading or contrary to law, and is not excessive, inadequate, or unfairly discriminatory. GMCB Rule 2.000, § 2.401. This formula and factor filing meets all these criteria and must be approved.

These rate review factors must be balanced against each other, but ultimately a premium must cover the costs of providing the health care that the insureds, as a whole, consume. This formula and factor filing is intended to produce such premiums, consistent within the parameters of the GMCB rule.

The BCBSVT actuarial memorandum also provides a Medical Loss Ratio (MLR) projection in 2024 of 88.9% for BCBSVT. (BCBSVT Memo at 34). As this filing covers the insured large group market, BCBSVT is subject to a minimum MLR requirement of 85%. 45 C.F.R. § 158.210(a). The anticipated MLR significantly exceed the federal requirement. This reflects that the cost of insurance – that is, the portion of premium that will cover expenses other than medical care and health care quality improvement – is much lower than the level deemed acceptable by federal and state minimum MLR requirements. This further supports a finding that the rates produced by this formula and factors filing are affordable.

The large group market is highly competitive, which creates inherent downward pressure on rates provided they are actuarially sound. Large group employers have multiple choices when it comes to providing health care to their employees, including the opportunity to self-fund or to choose among multiple insurers in the large group market. The Vermont large group market is

dynamic and competitive and most large groups work with brokers that continually assess the market to support groups in the annual shopping process. There is no reason for the GMCB to reduce the filed factors below actuarially justified levels in the name of affordability because the competitive market ensures that a rate can only be sold if it is affordable.

There is no actuarially supported reason to disapprove this filing. Adequate rates are a prerequisite for the existence of sufficient funding to deploy this and similar programming that ensures that Vermonters can receive the care they need at the time and place they need it. For this reason, the GMCB should approve this filing, without modifications.

- c. *The Department of Financial Regulation’s Solvency Opinion accepts BCBSVT’s rates as reasonable and necessary and cautions that downward adjustments to the filing’s rate components that are not actuarially supported would likely erode BCBSVT’s surplus and RBC ratio.*

DFR reviews an insurer’s rate to make certain that the rates maintain the insurer’s solvency.⁷ The DFR Solvency Opinion finds that “... the range of surplus targeted by BCBSVT is reasonable and necessary for the protection of policyholders. BCBSVT is currently below this range.” (DFR Solvency Opinion at 2, citation omitted, emphasis added.)

DFR cautions “any downward adjustments to the filing’s rate components that are not actuarially supported would likely further erode BCBSVT’s surplus and RBC ratio.” (DFR Solvency Opinion at 1). “DFR considers insurer solvency to be the most fundamental aspect of consumer protection.” (DFR Solvency Opinion at 2, emphasis added). “A sufficient surplus is crucial to an insurer’s solvency.” *Id.* Thus, any further reduction would be to the detriment of current and future members. Additionally, reducing the formula or any of the accompanying factors below the filed level—carefully calibrated for maximum affordability and

⁷ Solvency Impact of “2024 Blue Cross VT Large Group Rating Program Filing” (SERFF # BCVT-133154621) of Blue Cross Blue Shield, dated April 11, 2023 (citations omitted) (“DFR Solvency Opinion”).

sustainability—will threaten to destabilize the block by making future losses more likely. Poor financial results, in turn, may lead to rate instability such that another cycle of rating formula adjustments would likely become necessary. To avoid any negative impact on solvency and in turn, exposing consumers to risk of harm, the GMCB must approve the rates as filed. Doing so will ensure Vermonters continued access to care in a time of uncertainty.⁸

III. Conclusion

On review, the GMCB must determine whether the proposed formula and factors will produce rates that are affordable, promote quality care, promote access to health care, protect insurer solvency, are not unjust, unfair, inequitable, misleading or contrary to law, and are not excessive, inadequate, or unfairly discriminatory. GMCB Rule 2.000, § 2.401. For all the forgoing reasons, this formula and factor filing meets all these criteria, and there is no reason for the GMCB to reduce the filed factors below actuarially justified levels in the name of affordability because the competitive market ensures that a rate can only be sold if it is affordable. BCBSVT has fully justified the formula and factors before the GMCB as evidenced by the filing itself, the information provided herein, DFR’s Solvency Opinion, and as agreed by the recommendations of the GMCB’s own actuarial consultant. Therefore, BCBSVT respectfully requests that the GMCB approve the filing, without modification.

Dated at Berlin, Vermont this 18th day of April 2023.

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⁸ As DFR highlights in its Solvency Opinion, COVID-19, though mitigated to some degree “the long-term impact of COVID-19 is not fully known at this time and, therefore, neither is the impact on insurer solvency.” (DFR Solvency Opinion at 1.).

CERTIFICATE OF SERVICE

I hereby certify that a Waiver of Hearing has been duly served upon Michael Barber, Laura Beliveau, Jennifer DaPolito, and Geoffrey Battista, all of the Green Mountain Care Board; and upon Eric Schultheis, and Charles Becker, both of the Office of the Vermont Health Care Advocate, by electronic mail, return receipt requested, this 18th day of April 2023.

/S/ Gregory J. Boulbol

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